

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
IN RE NEW YORK CITY POLICING : Docket #20cv8924
DURING SUMMER 2020 DEMONSTRATIONS :
: New York, New York
: July 11, 2022
-----: TELEPHONE CONFERENCE

PROCEEDINGS BEFORE
THE HONORABLE GABRIEL W. GORENSTEIN,
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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None

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None

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THE CLERK: We're here in In Re: New York

3

City Policing During Summer 2020 Demonstrations, case
4 number 20cv8924.

5

Will counsel, please state their appearances
6 for the record, starting with plaintiffs.

7

MS. LILLIAN MARQUEZ: Good afternoon, Your
8 Honor, this is Lillian Marquez of the office of the New
9 York State Attorney General on behalf of plaintiffs and
10 the People.

11

MR. WYLIE STECKLOW: Good afternoon, Your
12 Honor, Wylie Stecklow on behalf of the plaintiffs in
13 the Gray litigation.

14

MR. ROBERT HODGSON: Good afternoon, Your
15 Honor, this is Robert Hodgson from the New York Civil
16 Liberties Union on behalf of the Payne plaintiffs.

17

MR. ROBERT RICKNER: Good afternoon, Your
18 Honor, this is Rob Rickner on behalf of the Sierra
19 plaintiffs.

20

MX. REMY GREEN: This is Remy Green on behalf
21 of the Sow and Hernandez plaintiffs, and while I don't
22 anticipate I'll be speaking today, if I speak I should
23 appear in the transcript as Mx. Green spelled M-X-
24 period rather than Mr. or Ms.

25

MS. ALISON FRICK: This is Alison Frick for

1 PROCEEDINGS

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2 the Wood case.

3 MS. TAHANIE ABOUSHI: Good afternoon, Your
4 Honor, this is Tahanie Aboushi for the Roland
5 plaintiffs.

6 MS. AMY ROBINSON: Good afternoon, Your Honor,
7 this is Amy Robinson for defendants.

8 MS. GENEVIEVE NELSON: This is Genevieve
9 Nelson for defendants, good afternoon, Your Honor.

10 MS. JENNY WENG: This is Jenny Weng for
11 defendants, good afternoon, Your Honor.

12 MS. BRIDGET HAMILL: Good afternoon, Your
13 Honor, this is Bridget Hamill for the defendants.

14 HONORABLE GABRIEL W. GORENSTEIN (THE COURT):
15 Okay, I assume that's everyone. We are here based on a
16 letter of June 28th filed twice at dockets 625 and 627,
17 and the response at docket 639. I think we'll start
18 with what the defendants are going to supply plaintiffs
19 and then we'll get to what the plaintiffs are going to
20 supply defendants. But Ms. Frick, you're speaking for
21 the plaintiffs?

22 MS. FRICK: yes, Your Honor, thanks very much.

23 So --

24 THE COURT: Hold on, hold on, I just wanted to
25 know who it was.

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MS. FRICK: Yes, it's me.

3

THE COURT: And what I was going to say was you obviously didn't have the benefit of seeing the letter though I know you talked to them. Maybe what we can do is work off what their proposal is with respect to that, it may be in their letter or if you need to confirm what it is we can do that. Maybe you're fine with it, maybe you have problems, so why don't you let me know.

11

MS. FRICK: Sure. So I think that we're relatively close to agreement but I think we need the Court's assistance to get us over the finish line in terms of what we have requested from defendants. So we have asked for two things, information on the one hand, and crucial documents in kind of three categories on the other hand.

18

So with respect to information we're very close to an agreement. From the City's letter it appears that the City is agreeing to provide at a reasonable timeline information about the protest that a deponent was present at or involved in the planning. We ask only that that also be supplemented to identify protests that the deponent may have been involved in the response. So not just physically present or

1 PROCEEDINGS 7
2 involved in the planning, but also in the response or,
3 you know, the investigation afterwards, any aftermath
4 with respect to that protest. And we just ask that that
5 information be provided as early as practical so that
6 we can coordinate our depositions.

7 So I do think that we're quite close to an
8 agreement on that bucket of information. I can move on
9 to the second category which is the documents that we
10 have asked for and I'm going to --

11 THE COURT: I'm sorry, I'm sorry, I realized I
12 was on mute, I apologize.

13 MS. FRICK: Oh, I'm sorry, Your Honor.

14 THE COURT: I, what I'd like to do is do them
15 one piece at a time so we don't have to sort of go back
16 over it.

17 MS. FRICK: Sure.

18 THE COURT: So let me turn to the City, it
19 sounds like they're adding the response to what you
20 put, any problem with that?

21 MS. ROBINSON: No, Your Honor, the only
22 question that I have, I think we are in substantial
23 agreement, the only question I have is what plaintiffs
24 are referring to as the aftermath.

25 MS. FRICK: Well, Ms. Robinson, I think it

1 PROCEEDINGS 8
2 depends a little bit about the information that you
3 learned from --

4 THE COURT: Just as a matter of practicality,
5 Ms. Frick, just address me, I don't want attorneys
6 addressing each other.

7 MS. FRICK: Oh, sure, I apologize, Your Honor.
8 I think that's a completely valid question and I think
9 it will depend on the deponent. And so some of these
10 deponents were involved more in kind of after action
11 reviews or discussions about, I would imagine that some
12 are more involved than others in discussions about, you
13 know, what happened or lessons learned --

14 THE COURT: So you're talking about, so you
15 mean by aftermath you mean after reviews of what
16 happened?

17 MS. FRICK: I don't think we want to limit it
18 to something as formal as that, but to the extent that
19 there were meetings or discussions, say, at the
20 precinct level or in at some other level about a given
21 protest that had happened, we want to know if the
22 deponent was involved in such discussions, even if that
23 deponent had not, themselves, been present at the
24 protest.

25 THE COURT: Okay, so you're talking about, we

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2 just need to put it in a term and, by the way, I want a
3 written order after all this and hopefully my direction
4 will be clear, if not you present me with competing
5 orders, it sounds like what you're looking for is any
6 involvement in a, sort of a self-evaluation of the
7 police department conduct during the protests, is that
8 what you're looking for?

9 MS. FRICK: I think it might be just more
10 basic than that and it might be our fault for trying to
11 provide examples, but what we want is to know which
12 protests each deponent knows about. And that might be
13 because they were there, but it might be because they
14 had discussions with people who were there or, you
15 know, there were involved in some way with supervising
16 people who were there, or they met to plan the protest
17 but didn't attend, or they had discussions in the
18 precinct afterwards about lessons learned. So I am
19 hesitant to cabin it to something as formal as, you
20 know, some kind of after action review.

21 What we want to know are the protests that
22 each individual deponent, you know, knows the most
23 about and is there to talk about so that we can make
24 sure that we question the deponent on those protests.
25 So we provided an, what I would think of as a list of

1 PROCEEDINGS 10
2 examples of, you know, whether they were involved in
3 the planning, the execution or the aftermath. I
4 understand that aftermath might be too vague of a term
5 but this is what we're trying to get at.

6 THE COURT: It is too vague so I'm giving you
7 your chance to give me something else, I'm not sure
8 what, I'd like something, you know, in the form of a
9 phrase rather than in the form of examples, if you can
10 think of a phrase I'm willing to consider it, otherwise
11 I'll try to come up with one, do you have anything?

12 MS. FRICK: Perhaps formal or informal
13 reviews?

14 THE COURT: Of the police department's conduct
15 at the protest?

16 MS. FRICK: Yes, after the fact review or
17 evaluation.

18 THE COURT: Yes, I thought that's what I was
19 kind of saying, evaluation of the police department's
20 conduct at that protest.

21 MS. FRICK: Yes, I think maybe if we can say a
22 formal or informal evaluation of the police
23 department's conduct.

24 THE COURT: Well the way I put it, evaluation
25 I think would include both but, okay. Ms. Robinson, any

1 PROCEEDINGS

11

2 problem with that?

3 MS. ROBINSON: No problem with that, Your
4 Honor.

5 THE COURT: Okay, I think evaluation of the
6 police department's conduct of the protest is fine, I'm
7 not specifying whether it's formal or informal, so I
8 think it includes both.

9 Okay, next category.

10 MS. FRICK: So then we have documents that
11 we're asking for and we start by noting, as we did in
12 the letter, that these are documents that were all
13 responsive to discovery requests served a year ago. So
14 but, you know, given where we are now we are kind of
15 willing to take what we can at this point so that we
16 can actually move forward quickly with effective
17 depositions.

18 So the first kind of category of things was
19 all grouped together, we've asked for calendars and
20 texts, text messages, and we've asked for those during
21 a short eight week window when the bulk of protests
22 occurred, May 25th to July 25th. And the defendants
23 appear willing to provide calendars and texts to the
24 extent that they exist but I believe I understood from
25 their letter that they want to limit it to I guess

1 PROCEEDINGS 12
2 documents just created on the dates of any protest
3 identified in our first, you know, information sharing
4 exercise. They also seem to want to limit gathering
5 texts --

6 THE COURT: Hold on. Hold on one second, I
7 want to read the part of the letter, I mean I'll give
8 them a chance soon, but I just want to read the part of
9 the letter that you are talking about that you think is
10 limiting, can you just quote it for me?

11 MS. FRICK: Oh, sure, let me find it. Okay,
12 calendars -- sorry, this is on page, the top of page 3,
13 the first full paragraph.

14 THE COURT: All right.

15 MS. FRICK: "Defendants agree to provide
16 relevant, responsive, non-privileged calendars and text
17 messages but only should be required to supply any for
18 plaintiffs' 83 Schedule A protest locations." So I took
19 that to mean, I don't really know what that means with
20 respect to texts and calendars, but I took that to mean
21 texts and calendars that occurred on the date of those
22 protests.

23 THE COURT: Well maybe it doesn't, I assumed
24 it meant concerning those protests, Ms. Robinson?

25 MS. ROBINSON: What we were referring to would

1 PROCEEDINGS 13

2 be, starting with calendars first, would be the
3 calendars that are for the schedule, the 83 Schedule A
4 dates list of protest locations that plaintiff
5 provided. And even going back to the first, the first
6 prong of this that we discussed earlier, also subject
7 to relevancy and to privilege. And, yes, we are trying
8 to limit it to the 83 Schedule A protest locations.

9 THE COURT: Okay, I'm a little confused. Hold
10 on, let's just, let me try to imagine this. The, I'm
11 not sure what a calendar is anymore in terms of what
12 people actually maintain. Is there some department, you
13 know, issued calendar or --

14 MS. ROBINSON: They use Outlook, Your Honor.

15 THE COURT: Okay, so they use Outlook, and, I
16 see, so you want to supply their calendars for, let's
17 say, the protest June 1st, you want to supply the
18 calendar for June 1st but only insofar as it mentions
19 protest things, is that it?

20 MS. ROBINSON: Well, yes, things that are
21 relevant to protests, that things that are not
22 privileged, things that are responsive, not --

23 THE COURT: Privilege don't worry about, you
24 can withhold what's privileged as long as you did a
25 log, or do a log, or we can talk about that. But what

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2 is it that you are imagining not giving? Is it, you
3 know, they have a meeting with somebody, you know, that
4 relates to, you know, X murder that occurred on and you
5 don't want to give that up, is that it?

6

MS. ROBINSON: Correct, Your Honor, just
7 anything that's not responsive, you know, that, I mean
8 something that is department, that is department issue
9 or something that, you know, a dentist appointment,
10 things that, you know, things that pop up on calendars
11 that, you know, are not responsive to the protests,
12 themselves.

13

THE COURT: All right, so Ms. Frick?

14

MS. FRICK: Well, Your Honor, I think as we've
15 seen already in this case, we've had some issues with
16 determinations of what is, quote, relevant information,
17 and that's why what we have asked for is a kind of,
18 just an eight week period where everything that's not
19 privileged be turned over. Because, to be honest, if
20 they're spending lots of time not dealing with the
21 protests that it helps, is also information that's
22 relevant. It also might not be, for example, with Mott
23 Haven there were, we believe, phone calls or meetings
24 with non-police people that on their face might not be,
25 might not appear to be related to any protest but, you

1 PROCEEDINGS 15
2 know, we believe that there is a connection there to
3 the, to how the response ended up going. And so it just
4 seems to be inviting a lot of mischief to have parsing
5 through each day for defendants to be determining what
6 they think is relevant as opposed to providing
7 calendars that should have been produced a year ago
8 that have not been objected to, that aren't included in
9 the chart of objections and we've now limited it to a
10 very short window of time.

11 MS. ROBINSON: Okay, Your Honor, may I
12 interject?

13 THE COURT: Yes.

14 MS. ROBINSON: What plaintiffs are asking for
15 are not just the eight weeks, they're asking for the
16 eight weeks plus any other protests that they were,
17 that the deponent was present for. That goes outside
18 of the Schedule A, and so, you know, we have --

19 THE COURT: Hold on, can you just stop for a
20 second?

21 MS. ROBINSON: Yes.

22 THE COURT: Are you saying that there are
23 protests that occurred that are not on Schedule A?

24 MS. ROBINSON: Yes.

25 THE COURT: That are at issue in this lawsuit?

1 PROCEEDINGS 16

2 MS. ROBINSON: No.

3 THE COURT: I'm confused about what's going
4 on.

5 MS. ROBINSON: There are, the only dates of
6 issue in the lawsuit are the plaintiffs' provided
7 Schedule A list of protest dates and locations.

8 THE COURT: Okay, and is that --

9 MX. GREEN: Your Honor, this is Remy, that's
10 incorrect. The Schedule A is not the limitation, a
11 limitation on what's at issue in the case.

12 THE COURT: Hold on, I'm enforcing my one
13 attorney rule here, I can't, I can't have more than one
14 attorney talking. So, look, the Schedule A, what is
15 this eight week period, Ms. Frick?

16 MS. FRICK: So, Your Honor, we had asked for
17 all of the calendars from the eight week period plus
18 calendar entries --

19 THE COURT: What is the eight week period? Is
20 the eight week period --

21 MS. FRICK: May --

22 THE COURT: Let me finish my sentence. Let me
23 finish my sentence. Is the eight week period
24 coterminous with whatever the dates are, the beginning
25 and the end date on Schedule A, does that happen to be

1 PROCEEDINGS 17

2 eight weeks or is that longer than eight weeks?

3 MS. FRICK: No, Your Honor, Schedule A is
4 longer than eight weeks. This eight weeks is when the
5 bulk of protests occurred, May 25th to July 25th, but
6 then we've asked for plus calendar entries reflecting
7 the involvement in protests outside of that time range
8 which is more limited. And, Your Honor, just to be
9 clear what Mx. Green was referring to is that Schedule
10 A does not include every single protest at issue in
11 this case, there are additional ones that have come to
12 light during discovery and also it doesn't include the
13 Roland, the Roland case protest. It was, Schedule A was
14 meant to, you know, help the parties, not limit the
15 parties.

16 THE COURT: Okay, I'm still trying to work
17 through the calendar problem. So you are looking for
18 the calendars of these individuals for the eight week
19 period plus what, Ms. Frick?

20 MS. FRICK: Plus all calendar entries
21 reflecting involvement in any protests outside of that
22 time range which will be, by definition, more limited.

23 THE COURT: Okay, but only to the extent that
24 there is a protest at issue. And how do they know
25 they're at issue, they look at Schedule A and plus

1 PROCEEDINGS

18

2 Roland plus what?

3 MS. FRICK: We have served an amended Schedule
4 A that tried to provide all of the protests, defendants
5 have objected to that. Again, it was meant to be of
6 assistance so I don't completely understand defendants'
7 objection, but we have a list.

8 THE COURT: Okay, so at least it's known what
9 you're asking for.

10 MS. FRICK: Yes.

11 THE COURT: So, Ms. Robinson, try me again
12 because I think I got thrown off by what was outside
13 the eight week period.

14 MS. ROBINSON: Okay.

15 THE COURT: Tell me what it is they want that
16 you don't want to do.

17 MS. ROBINSON: What they want is an eight
18 week, a random eight week period, there has been no,
19 you know, eight week period in the litigation so far.
20 The deposition protocol that's in place right now for
21 line officers is their attendance, their attendance or
22 policing at the Schedule A list of protests. And so we
23 believe that the protocol for the high ranking officers
24 should be no different.

25 THE COURT: Well hold on, hold on --

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PROCEEDINGS

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MS. ROBINSON: It should be the Schedule A --

3

THE COURT: Hold on. Hold on. Hold on. The
4 low level people I didn't think had calendars, I
5 thought I had you look through the memo book --

6

MS. ROBINSON: I'm sorry, no, you're
7 absolutely right, I'm sorry, Your Honor, I misspoke.
8 What was relevant at the line officer depositions was
9 the Schedule A list of protests, so that's what we have
10 been applying to the high ranking officers' protocol as
11 well.

12

THE COURT: Okay, but we have a request of a
13 different character, and I'm not even deciding yet what
14 way it cuts, but now we're asking for peoples'
15 calendars which was not going on with the low level
16 police officers.

17

MS. ROBINSON: True, we were asking for their,
18 they were essentially asking for their, whether they
19 were present at any one of those 83 protest locations
20 which is what I understand is what they are trying to
21 get to with respect to high ranking officers, as well,
22 you know, are they present at these 83 protest
23 locations --

24

THE COURT: Yes, see, I don't think that's, I
25 think that's not, I think they were making, I think

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2 they made clear that's not what's going on with the
3 calendars of the high level people. They're trying to,
4 I think the way they're viewing it is that this is a
5 watershed period in the life of the police department
6 and they want to see what the high level people are
7 doing during this watershed period, whether it relates
8 to the protests or not. Ms. Frick, have I characterized
9 it correctly?

10 MS. FRICK: Yes, Your Honor, you've
11 characterized it perfectly.

12 THE COURT: Okay. So, Ms. Robinson, that's
13 why they want, they want everything, I mean we could
14 probably work on the dentist problem although I think
15 that the, you know, the simplest thing is to have, you
16 know, attorneys' eyes only designation. I mean I
17 usually, what's on an office calendar is not really
18 that personal, so that's what they're getting at and
19 you need to -- and I think they're trying to do you a
20 favor by limiting it to the eight week period, I
21 suppose they could have gone longer but that's what
22 they're identifying as the watershed period. And then
23 we can talk about what they want outside that, but I
24 don't even think we've reached a resolution on the
25 eight week period.

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MS. ROBINSON: Your Honor --

3

THE COURT: So on the eight week period, Ms. Robinson, tell me, I mean or maybe you told me and I need to rule, what's the objection on the calendar for the eight week period?

7

MS. ROBINSON: Well my objection was originally based on what plaintiffs seem to be disagreeing with is the, the high ranking officers' presence at particular protests, the confirmation of their presence at particular protests --

12

THE COURT: Right, so that's not what it's about?

14

MS. NELSON: Your Honor, this is Ms. Nelson, may I be --

16

MS. FRICK: I'm sorry, Your Honor, the defendants repeatedly violate the Court's one attorney --

19

THE COURT: Hold on, you didn't even let me speak, Ms. --

21

MS. FRICK: I apologize, it just happened the entire last, the entire last conference and it --

23

THE COURT: Hold on --

24

MS. FRICK: It behooves me to speak up but I apologize for being premature.

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2 THE COURT: Yes, well also given what happened
3 earlier it's particularly inappropriate. So I was about
4 to say the same thing, which is what I said before to
5 Mx. Green, one attorney per side. Ms. Robinson, if you
6 need to take a break to consult with someone I'd much
7 rather you did that than anything else. So anything
8 else you want to say on just the eight week period
9 calendar issues, Ms. Robinson?

10 MS. ROBINSON: Nothing else that I want to say
11 on the eight week period.

12 THE COURT: Okay. Now before I rule on that,
13 Ms. Frick, outside the eight week period what is it you
14 are talking about in terms of calendar entries?

15 MS. ROBINSON: In terms of calendar entries,
16 as we put in our letter, outside of the eight week
17 period we asked for calendar entries reflecting
18 involvement in any protests outside of that
19 (inaudible), so from Schedule A. So it presumably
20 could be showing attendance at a protest but it also
21 could show meetings about a protest. And that's really
22 what we're looking for even more than just attendance.

23 THE COURT: Okay, entries relating to
24 protests. Okay, so, Ms. Robinson -- and is there a
25 period for that?

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MS. ROBINSON: I would suggest that the
3 period, if the eight week period --

4

THE COURT: Hold on, I was addressing -- I was
5 addressing Ms. Frick, what --

6

MS. ROBINSON: Oh, I'm sorry, I thought you
7 said Ms. Robinson.

8

THE COURT: Maybe I did. Ms. Frick, what,
9 when you're talking about outside the eight week
10 period, is there some time limitation on that? you
11 talked about a subject matter limitation which you said
12 is entries relating to protests, is there a time
13 limitation?

14

MS. FRICK: Yeah, well I think it would be
15 entries reflecting involvement in the protests listed
16 on the amended or supplemental Schedule A.

17

THE COURT: Okay, so that takes us to some end
18 date, do you remember what it is by any chance?

19

MS. FRICK: I don't have it offhand but my co
20 -- my colleagues might be telling me, I believe, I
21 believe it's early January of 2021, but I might be
22 wrong.

23

THE COURT: Some period of months. Okay, so,
24 Ms. Robinson, do you want to address that piece?

25

MS. ROBINSON: I would like to address it as I

1 PROCEEDINGS 24
2 addressed it earlier which is that we should stick with
3 the original Schedule A list of protest locations.
4 That's what we, that's what the whole litigation has
5 been based upon this far, and to change it at this late
6 date, it's only going to add more documents, more time,
7 more time at depositions and that's why we objected to
8 an amended Schedule A in the first place.

9 THE COURT: Okay, so your objection is,
10 relates to the amended Schedule A, if it was Schedule A
11 you wouldn't have an objection, is that it?

12 MS. ROBINSON: Correct.

13 THE COURT: Okay.

14 MS. FRICK: Your Honor, the amended Schedule A
15 --

16 THE COURT: Hold on. Hold on.

17 MS. FRICK: I'm sorry.

18 THE COURT: Hold on, what is, how many
19 protests are added to the amended Schedule A from the
20 83?

21 MS. ROBINSON: That's what I was just about to
22 say, it adds five and I believe that that includes the
23 roll in matters. So it's a total of five.

24 THE COURT: Okay, so I'm going to give you the
25 ruling on the calendars. You should supply the full

1 PROCEEDINGS 25
2 calendars for the eight week period for these
3 individuals and they should supply entries relating to
4 protests on the amended Schedule A for, for entries
5 outside the eight week period. And I'm not making any
6 definitive rulings about the meaning of the amended
7 Schedule A or what has to be responded to in other
8 areas, this is just for this way now.

9 Let's move on to other categories in this, and
10 I guess --

11 MS. ROBINSON: Yes.

12 THE COURT: I think I was going through this
13 with Ms. Robinson when I got sidetracked on the
14 calendars.

15 MS. FRICK: No, Your Honor, we were going
16 through it.

17 THE COURT: I was talking to you, Ms. Frick?

18 MS. FRICK: Yes.

19 THE COURT: Okay, so what's the next category
20 other than calendars, just text messages?

21 MS. FRICK: Text messages and then the final
22 category is just (inaudible) history. So with respect
23 to text messages, again, we asked for the same, it's
24 the same timeframe as the calendars which would be text
25 messages sent by or to the deponent's NYPD phone during

1 PROCEEDINGS 26
2 that eight week period, plus dates of other protests
3 that the deponent attended or was substantially
4 involved in.

5 THE COURT: Okay --

6 MS. FRICK: And as I understand --

7 THE COURT: Hold on a second. Hold on a
8 second.

9 MS. FRICK: Yes.

10 THE COURT: Hold on a second. Are you
11 seeking, so like the calendar, and I think there may be
12 a different analysis that applies, you know, for me a
13 calendar is a document and it's circumscribed, very
14 circumscribed compared to text messages. So it sounds
15 like you want text messages on every possible topic for
16 these people for the eight week period, is that what
17 you're saying?

18 MS. FRICK: We're not seeking, you know,
19 privileged text messages, we would be --

20 THE COURT: No, no, but you're seeking about a
21 murder investigation or whatever else is, okay.

22 MS. FRICK: Yes, Your Honor, and part of that
23 is for the same reason as it's hard to circumscribe the
24 calendars to a specific date is that discussions about
25 a protest can happen well after a protest or, you know,

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2 discussions about planning can happen well before. And
3 so limiting it to a date of a protest, especially, you
4 know, when protests often went, you know, past the hour
5 of midnight and into the second day. And, for example,
6 in these, in the body worn camera and Tero (phonetic)
7 footage, you can see many of these high level officers
8 on their phones, what appear to be texting, meaning
9 like they're not speaking, they're, you know, using
10 their thumbs, so we can surmise it's texting like
11 during a protest. So we believe that the text messages
12 are highly relevant, we've been trying to get text
13 messages for a year now, we haven't received any. I
14 hope that they've been preserved and to the extent that
15 they have, we think that the best way is to again focus
16 it during this very intense eight week period plus the
17 specific dates listed on the Amended Schedule A
18 relating to protests.

19

THE COURT: Okay, but you didn't really
20 address my concern and maybe I wasn't clear enough
21 about it. I said to you, you want the text messages
22 about the murder investigation, and then you started,
23 you didn't really answer that question, you started
24 talking about how you wanted it about protests, so I
25 can't tell if you're seeking the murder investigation

1 PROCEEDINGS 28
2 text messages and all the other text messages, if any,
3 that had nothing to do with the protests?

4 MS. FRICK: Well, Your Honor, I apologize for
5 not answering clearly. We are interested primarily in
6 texts about the protests, but we are also interested,
7 for the reasons that we explained in the earlier
8 discussion on calendars, to see what high level NYPD
9 officers and supervisors were doing, in general, during
10 this period of time.

11 And so we also just think, to be honest, based
12 on the amount of work that these discovery disputes
13 have entailed, that it would just be a simpler
14 proposition to ask for everything and not invite the
15 redaction issues that we have run into over and over in
16 this case.

17 You know, if there is absolutely a completely
18 irrelevant conversation, are we going to fight to the
19 mat to have those, no, but I am very concerned about
20 feeding grounds to defendants to make those
21 determinations about, quote-unquote, "relevance," when
22 we've, you know, been down this road and has been, and
23 have been forced to spend a lot of time litigating
24 similar redactions.

25 MS. ROBINSON: And, Your Honor, if I could

1 PROCEEDINGS

29

2 interject --

3 THE COURT: Wait, who is this?

4 MS. ROBINSON: Amy Robinson.

5 THE COURT: Okay, you want to interject, go
6 ahead I guess.

7 MS. ROBINSON: I just wanted to state that,
8 you know, if it's, if there's a murder investigation or
9 there is any other kind of investigation, that, you
10 know, that very well, very likely will be privileged
11 because it's going to be an ongoing investigation. So
12 that would be law enforcement privilege. And --

13 THE COURT: Wait, wait, hold on. Ms.
14 Robinson, I assumed you would be arguing that you don't
15 want to produce it, it's not relevant, why are you --

16 MS. ROBINSON: I agree with that, but I also
17 want to assert privilege --

18 THE COURT: Hold on, there is no point in
19 asserting privilege because you're going to have that
20 right on the production. So let's talk practicalities
21 here.

22 MS. ROBINSON: Okay.

23 THE COURT: If it's not relevant we don't have
24 to worry about privilege.

25 MS. ROBINSON: Understood.

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2 THE COURT: Hold on a second, folks. I, this
3 is of a different character than the calendar entries,
4 I, there's no, I do not see a reason to,
5 notwithstanding past, I can't start making rulings that
6 the City can never be trusted to review documents for
7 relevance, so I'm prepared to limit this to texts
8 relating to the protests in some way, planning, things
9 happening at the protest, post protest, you know, texts
10 relating, anything concerning the protests, period.

11 MS. FRICK: Okay, Your Honor -- sorry.

12 THE COURT: Hold on. So, Ms. Robinson, is
13 there some objection to that?

14 MS. ROBINSON: The caveat, there are two
15 caveats, the first is that the timing, if it's going to
16 be the same sort of timing with the calendars. And
17 second is that the folks that are going to be deposed
18 are very high ranking individuals and, you know, are
19 decision makers. And to remove their, and in order to
20 avoid unnecessary removal of their phones, we would
21 like to go through a series of questions with them to
22 see if they do, in fact, use the text function, if they
23 texted during protests, things along those lines so
24 that we can find out whether we need to remove their
25 phones from them.

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THE COURT: Okay, but that's not dependent on
I mean as long as they're getting any text messages my
ruling isn't going to affect your obligation. You have
the same obligation you have with any other document
request, you need to do a reasonable investigation --

7

MS. ROBINSON: Understood, Your Honor.

8

THE COURT: If it's, if you have a witness
who, you know, is, can provide you with sufficient
assurance that they never used their phone for texting
ever, then you will make your decision about what you
are going to do. I'm not going to start ruling in
advance about how you're supposed to do that. God help
this person if it turns out that they said they never
do texting and texts from them turn up, someone will
have failed miserably and there will be consequences
for it. So I'm not going to tell you how to do that
job. What I am going to tell you to do is to produce
text messages. If they --

20

MS. ROBINSON: Right, Your Honor, but --

21

THE COURT: There's nothing else I can do.

22

MS. ROBINSON: The only question I have with
that is that do you text message ever is a different
question than did you text during the protests or do
you generally used the texting function. If somebody

1 PROCEEDINGS 32

2 doesn't use the text, didn't use text during the
3 protest --

4 THE COURT: I mean you're asking me, I'm not
5 sure what you're asking me for. Right now there's a
6 request which I'm about to grant in some form that
7 requires you to produce the text messages of certain
8 individuals relating to protest, and we haven't figure
9 out the period or whatever it is. So what is it you
10 want from me, do you want me to say I give you
11 permission to take their word for it if they say they
12 don't have any, I'm not going to do that. You have to
13 conduct a reasonable investigation and discuss it with
14 them and let them know the consequences for an error in
15 this.

16 MS. ROBINSON: Understood, Your Honor.

17 THE COURT: It's not for me to tell you how to
18 do it. You have to do it correct, they have to -- and
19 you have to do it correctly. They have to be produced.

20 MS. ROBINSON: Understood, Your Honor.

21 THE COURT: And you have to do it reasonably.
22 So I mean I'm not, you're not looking, I think it's the
23 same ruling as we had before, I'll give each side one
24 last chance to tell me why it shouldn't be, which is
25 it's going to, and I know the objection about the

1 PROCEEDINGS 33
2 amended Schedule A, and I'm going to overrule that
3 temporarily, it's going to be texts relating to these
4 protests, texts concerning these protests, to use the
5 Southern District definition, that are on the revised
6 schedule. And I think that's it, that's what you're
7 looking for, Ms. Frick, now that you know that you're
8 not getting all the texts, right?

9 MS. FRICK: Yes, Your Honor.

10 THE COURT: Okay, Ms. Robinson, anything else
11 to say on that?

12 MS. ROBINSON: No, Your Honor.

13 THE COURT: Okay, so that's what needs to be
14 produced on texts. Ms. Frick, next category?

15 MS. FRICK: Thank you, Your Honor. The final,
16 the final thing to discuss is the disciplinary history.
17 So, you know, as is typical with depositions, we'd like
18 to see the disciplinary history for each deponent,
19 particularly the CCRB and the IAB files. Right now
20 what has been produced is just CCRB and IAB files
21 relating to the protests, but for the deponents,
22 themselves, we're interested in their disciplinary
23 history and, you know, to the extent that the City,
24 what I was going to say is that we can offer, you know,
25 we're fine with a compromise of, you know, old, very

1 PROCEEDINGS 34

2 old disciplinary history that doesn't implicate
3 honesty, or excessive force or improper arrests could
4 be redacted. But otherwise we're entitled to know if
5 the person that we're deposing has a significant
6 history of improper conduct.

7 THE COURT: Ms. Robinson?

8 MS. ROBINSON: Your Honor, we, we do not
9 object to that. We don't object to giving the exact
10 same thing that we've given for the line officers,
11 which are their, to non-civilians, their disciplinary
12 histories, their IAB history, their CCRB history and
13 their CPI history redacted just the way they were with
14 the, with the line officer depositions.

15 THE COURT: Okay, I gather from your letter
16 that you thought you had already produced it and you
17 wanted them to find it and you didn't have to find it,
18 I wouldn't have thought you'd already produced it to
19 these people but maybe I'm wrong.

20 MS. ROBINSON: Well what we, what we've done
21 with the line officers if we've produced it, I think
22 it's the two business days prior to the deposition. So
23 it would be, you know, in the hopes it would be the
24 most recent that we could print out on before a
25 deposition.

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THE COURT: I think you're not following me.

3

You seem to be objecting to this in some way in your
letter --

5

MS. ROBINSON: I was objecting to -- I'm
sorry, Your Honor, I'm sorry to interrupt you. What I
was objecting to was providing IAB and CCRB files.

8

THE COURT: Oh, as opposed to history.

9

MS. ROBINSON: As opposed to the histories.

10

THE COURT: And what did you do with the line
officers, did you get, did you get the plaintiffs files
or just histories?

13

MS. ROBINSON: The plaintiffs got the
histories, but we had already produced, we've already
produced all the CCRB files and the IAB files. So for
us to reproduce them for a deposition would to me seem
to be a waste of valuable time.

18

THE COURT: I can't tell you how lost I am,
I'm totally lost now.

20

MS. ROBINSON: Okay, I understand, let me, I
think I understand why you're lost. So there's a --

22

THE COURT: All right, try and help me.

23

MS. ROBINSON: There are three reports of
various pages long, and IAB report, a CCRB report, and
a CPI report which shows an officer's history at a

1 PROCEEDINGS 36

2 glance. Now, if there's a case or an investigation
3 within those reports, then there would be a file that
4 pertains to that investigation. And we have produced
5 all of those, and protest related --

6 THE COURT: Hold on. Hold on, stop, stop,
7 stop, you've produced them all for line officers, is
8 that right?

9 MS. ROBINSON: For everyone.

10 THE COURT: Including these high level
11 deponents?

12 MS. ROBINSON: No.

13 THE COURT: Hold on, hold on, I'm going to
14 hear from one side and then the other. You've produced
15 it for these high level deponents, you produced their
16 disciplinary history, first of all, you produced their
17 disciplinary histories already?

18 MS. ROBINSON: Well not their, possible, yes,
19 some of them we have produced their disciplinary
20 histories, they're not --

21 THE COURT: But not all?

22 MS. ROBINSON: Even the police commissioner on
23 down. You know --

24 THE COURT: Some or all? Ms. Robinson, Ms.
25 Robinson, you said some --

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MS. ROBINSON: Well, I'm not sure how current

they are.

4

THE COURT: Have you done it for all?

5

6

7

MS. ROBINSON: I don't believe we have done it for all, but the ones that we have done it for would be outdated at this point in our database. So --

8

9

10

THE COURT: But you're willing to do, hold on, you're willing to do the histories for all of them, you're not objecting to that I assume?

11

MS. ROBINSON: No objection to that.

12

13

14

15

16

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THE COURT: Okay. So now we need to deal with is in the event there's something for honesty or improper arrest, whatever our categories are, there may be a, quote, "substantive file relating to an investigation." And let me just turn now to Ms. Frick and I'd like her to answer that question, and then if she wants to say whatever she was going to say before, that's fine.

20

21

22

23

24

25

MS. FRICK: Thanks, Your Honor. So we do, we are hoping with these higher level officers to receive the underlying files for the entire disciplinary history that is, you know, relatively, that isn't too old, because these are officers who by definition have been promoted through the ranks. And a lot of our cases

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2 involve Monell claims based on supervision and
3 promotion. And so even if an improper conduct is not
4 protest related or even false arrest related, that is,
5 can be very relevant to the plaintiffs' claims. And we
6 have already seen this in disciplinary files and
7 histories that we have had to fight over, for example,
8 with an officer named Zelikov, there was a disciplinary
9 file or disciplinary incident that had been entirely
10 redacted which, as I understand it, this was the AG's
11 Office, but brought this dispute forward and eventually
12 they learned from that incident that this involves a,
13 the officer threatening to kill his ex-wife and the
14 response was that this officer's gun was removed for a
15 year. And so that entire file is very relevant to
16 plaintiffs' claims regarding to, regarding promotion
17 and supervision even though it doesn't have to do with
18 excessive force, or dishonesty or a false arrest
19 because this person --

20

THE COURT: Okay, hold on. Hold on, I could

21

not tell from the letters that this was, this does not
22 seem to be the issue from the letter. I don't mind
23 doing it --

24

MS. ROBINSON: I also do not, I also do not
25 know that this is the issue, Your Honor.

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2 THE COURT: Yes, this obviously has not been
3 keyed up -- teed up, rather, I'd certainly rather deal
4 with it now. So it sounds like, Ms. Frick, that for
5 the high level people you're interested in their
6 disciplinary history whether or not it relates to the
7 categories that I've already ruled upon with respect to
8 the line officers, is that correct? It certainly
9 wasn't in your letter, at least I didn't see it, is
10 that what I'm hearing now?

11 MS. FRICK: I think you -- well I think
12 there's some confusion here about what was ruled
13 earlier with respect to the line officers. So what has
14 been produced in general in the litigation are the CCRB
15 and IAB files relating to the protests, that's bucket
16 one. So when Ms. Robinson referred to having produced
17 a lot of other CCRB files, that is, those are the files
18 that we have received, they are protest related files.
19 In advance of each deposition we have been given that
20 deponent's disciplinary history, those kind of snapshot
21 looks that Ms. Robinson --

22 THE COURT: Hold on, did you get the full
23 disciplinary history or did you get just the listings
24 relating to the categories I thought I had ruled on
25 like improper arrest, honesty and so forth, I remember

1 PROCEEDINGS 40

2 ruling on this.

3 MS. ROBINSON: Can I object --

4 THE COURT: Hold on. Hold on --

5 MS. FRICK: Ms. Robinson, I don't know the
6 answer --

7 THE COURT: Ms. Robinson, do you know the
8 answer?

9 MS. ROBINSON: I do know the answer because I
10 did most of the production --

11 THE COURT: Okay, what's the answer.

12 MS. ROBINSON: Yes, I did make a mistake, you
13 know, according to Your Honor, with respect to the
14 Zelikov, it was a failure to report and we no longer
15 redact for failures to report.

16 THE COURT: Okay, so just can you answer my
17 question, does the, please, if you can, can you answer
18 this question, when you give what you call these
19 reports, these histories, are you giving the full
20 history or are you redacting everything except for the
21 categories of honesty, improper arrest, failure to
22 report and so forth?

23 MS. ROBINSON: We only redact for anything
24 over ten years, anything that relates to -- no, we
25 redact for anything that is over ten years, anything

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2 that's not related to excessive force, false arrest or
3 honesty.

4 THE COURT: Okay, so that was my, that's my
5 very simple question, so the histories do not show
6 things outside what I've ruled on with the categories,
7 that's all I was trying to get at. So --

8 MS. ROBINSON: But there's another issue which
9 is, I mean to produce the, let's say, let's take, you
10 know, an example of an officer that did something that
11 is not related to false arrests or excessive force, and
12 it's part of his CCRB report, his snapshot. For us to
13 go back now and get the underlying files for something
14 that's --

15 THE COURT: Hold on, we're not at the
16 underlying files yet, and I don't even know why we're
17 talking about underlying files that don't relate to
18 these categories. I'm even more confused than I thought
19 I could be right now. I thought what we were talking
20 about was what they get for these high level officers
21 and that there's essentially two categories. One is
22 what they get on the histories and two, if there is
23 something on the history that fits within those
24 categories, when do they get the actual underlying
25 documents. I haven't even gotten through number one yet

1 PROCEEDINGS

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2 --

3 MS. ROBINSON: Okay, do you want the answer to
4 that one?

5 THE COURT: I'd like to try getting through
6 number one.

7 MS. ROBINSON: Okay, if that was number one I
8 can answer that.

9 THE COURT: Well I think you already answered
10 it, I'm trying to figure out what the rule, what Ms.
11 Frick is seeking with respect to the high level people,
12 are you seeking anything more on just the redactions of
13 the histories? It sounds like they're not even
14 objecting to giving the histories for these people that
15 fit within these categories, are you seeking something
16 more than a listing that redacts everything but those
17 categories, Ms. Frick?

18 MS. FRICK: Your Honor, for, we are willing to
19 accept that for the histories we can be limited to the
20 categories that you've discussed.

21 THE COURT: Okay. So, one, okay, so that
22 takes care of the history. Now, in terms of, that
23 should be, I mean any questions on that, Ms. Robinson?
24 So for the histories you have to produce the histories
25 for each of these people with respect to what I'll call

1 PROCEEDINGS 43
2 the four categories, I don't know if there really are
3 four, honesty, improper arrest, falsely reporting,
4 excessive force, any problem with that?

5 MS. ROBINSON: Yes, I do have a problem with
6 that because we've, what we've produced so far, and I
7 don't mean with respect to depositions, I mean in the
8 litigation in total, is we've produced the underlying
9 files for this, the protests only.

10 THE COURT: Okay, stop, just stop. Are you
11 telling me you haven't produced for each officer their
12 histories?

13 MS. ROBINSON: No, their histories, yes --

14 THE COURT: That's my only question, Ms.
15 Robinson, do you have an objection to producing the
16 histories for these individual people with redacting
17 everything but the four categories. I can't believe
18 you'd have a problem with it but I'm just asking.

19 MS. ROBINSON: No, as I said earlier, I don't
20 have a problem with that.

21 THE COURT: Thank you, that's fine, we've now
22 gotten through that, now we're going to get to
23 underlying documents, I haven't even started on that
24 yet.

25 MS. ROBINSON: Okay.

1 PROCEEDINGS 44

2 THE COURT: So, Ms. Frick, what are you
3 looking for in terms of underlying documents?

4 MS. FRICK: I mean I'm looking for --

5 THE COURT: When I say underlying documents,
6 hold on, let me just back up for a second.

7 MS. FRICK: Yep.

8 THE COURT: I may be making a false assumption
9 here and my assumption is, is that to the extent there
10 are any investigations, that you are looking for
11 documents on those investigations and that's all you're
12 looking for. You're not looking for documents on any
13 investigations that don't relate to the four
14 categories, is that right, Ms. Frick?

15 MS. FRICK: That's right, Your Honor, we would
16 like the underlying documents, meaning the files,
17 relating to disciplinary history that falls into those
18 categories that defendants have agreed to produce.

19 THE COURT: Okay. So now I know, you know,
20 Ms. Robinson, what the plaintiffs are seeking, what's
21 the objection to that?

22 MS. ROBINSON: Okay, I, I'm probably the only
23 one now in the room that's confused, but as long as
24 what, and we're talking underlying files now, correct,
25 Your Honor?

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THE COURT: Yes.

3

MS. ROBINSON: Okay, so we have no, we've already produced the underlying protest files for all officers.

6

THE COURT: Stop, stop, you just used the word protest, no one said anything about protest in all of this.

9

MS. ROBINSON: If we were to go back and provide other disciplinary history, files for things that were not protests, we're talking terabytes.

12

THE COURT: Okay, that's fine, now I'm happy to hear your objection. So, first of all, with respect to the line officers, did you produce the underlying files?

16

MS. ROBINSON: Only for the protests, Your Honor.

18

THE COURT: Only for protests, okay, and Ms. Frick, you're looking for not, anything, not just protests, is that right?

21

MS. FRICK: That's right, Your Honor. And I do just want to clarify just for the record that the CCRB and IAB files that have been produced for the protests are not complete. And we have been fighting with them on this and I just really want to --

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THE COURT: I can't deal with that now, Ms.

3

Frick. I can only deal with one thing at a time.

4

MS. FRICK: Understood.

5

THE COURT: So what's the, I mean there is some (inaudible) inconsistency and I, you know, at this point we're not talking about relevance, we're talking about I guess impeachment or something, there does seem to be a burden if someone had some disciplinary history unrelated to this protest. What's the justification for that burden?

12

MS. FRICK: The justification for the burden is that, in general, when you are deposing somebody you are entitled to understand exactly what it is that they have been accused or found to have done in terms of misconduct, particularly as here where so many of the cases involve claims about the NYPD's improper promotion and supervision of these high level officers.

19

THE COURT: But I mean I don't know if it was your own judgment, but you didn't get it with respect to the line officers, is that right?

22

MS. FRICK: That's right, Your Honor, but here this is specifically about people who, you know, we would argue, many of who have failed upward, right, who are being promoted despite serious histories of

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2 misconduct. And so with higher level people those files
3 are arguably more relevant and that's why we're, you
4 know, pushing for them here.

5 THE COURT: Okay, I understand the argument
6 but I also understand the burden. So I'm not going to
7 give it to you now, you certainly can inquire about it
8 at the deposition. If there's some particular case that
9 you think you can make the case to me that producing a
10 particular file is extremely important, you can make
11 the application, I doubt you'll get the deponent back
12 again, but I'd be willing to hear the application. But
13 for right now you are going to get what you got with
14 the line officers.

15 All right, anything else on the requests from
16 the plaintiffs to the defendant?

17 MS. ROBINSON: I just, I have one thing that I
18 would like to add, and I know that we've discussed
19 privilege and you have discussed privilege on this, in
20 this conference, but I also want to make objections for
21 the deliberative process privilege with respect to any
22 sort of after action reports, the aftermath.

23 THE COURT: I'm not sure what you mean when
24 you say you're objecting to it, to the extent there's a
25 document involved you should supply a privilege log

1 PROCEEDINGS 48
2 that says I'm not producing this calendar entry. I mean
3 it's hard to believe a calendar entry would --

4 MS. ROBINSON: No, no, no, Your Honor, I'm not
5 talking about calendar entries, I'm --

6 THE COURT: But if you're talking about text
7 messages then that's, you'll do your privilege log, I
8 don't know what else to tell you.

9 MS. ROBINSON: Okay. All right, I just wanted
10 to make, you know, just, I just wanted to make it clear
11 that there could be a deliberative process privilege to
12 be asserted. And you're right on the calendars and the
13 texts.

14 THE COURT: Okay, I mean, you know, the
15 privilege may not be as broad as you think. I mean
16 people talking about what just happened at a protest
17 doesn't mean --

18 MS. ROBINSON: No, no, no, not that, Your
19 Honor, steps leading up to making changes, that sort of
20 thing.

21 THE COURT: Well I'm not making any rulings on
22 deliberative process.

23 MS. ROBINSON: Understood.

24 THE COURT: Any questions about what I ordered
25 with respect to the plaintiffs' requests of the

1 PROCEEDINGS

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2 defendant?

3 MS. FRICK: Yes. Yes, Your Honor. If the
4 defendants are being compelled only to produce the
5 disciplinary history which they have already claimed
6 today are, you know, just a handful of pages that can
7 be pulled up quite easily, we'd ask that those be
8 provided much sooner than, you know, in the days
9 leading up to a deposition, especially so that if there
10 does seem to be something that we do feel is
11 particularly significant based on Your Honor's order,
12 that we would have time to come, you know, just meet
13 with the City and then if necessary come to the Court
14 to petition for those underlying documents. And so I
15 don't see any reason why we should have to wait until
16 the days before a deposition to receive those
17 disciplinary histories.

18 THE COURT: Yes, Ms. Robinson, unique among
19 these various requests, the disciplinary histories do
20 not require the involvement or your preparation of the
21 deponent, it seems like this is something you're going
22 to run on a computer, and that you can do it pretty
23 easily --

24 MS. ROBINSON: It is easily, it is not
25 difficult to obtain them, it's exceedingly tedious and

1 PROCEEDINGS 50

2 time consuming to redact them.

3 THE COURT: Right, but you're going to have to
4 do it anyway. And you don't need the involvement of
5 the deponent, that's what's unique about this. So this
6 should be, you know, unlike the other things which I
7 understand require the involvement of the deponent,
8 this should be done on a much sooner timeline. So --

9 MS. ROBINSON: Perhaps one week ahead of a
10 deposition?

11 THE COURT: Yes, well, no, I think it should
12 be done within the time period of when you get them
13 name. Have all the names been done or been out there or
14 not yet, Ms. Frick?

15 MS. FRICK: Yes. Yes, all the names have been
16 delivered --

17 THE COURT: It should be tied to the names. So
18 this should be, you're going to have to do it anyway,
19 you should start this project independent of
20 preparation for the deposition, and I'll give you two
21 weeks to do whatever names they've given you so far,
22 okay? So that's July 25th, is that two weeks?

23 MS. ROBINSON: It will take, you know, quite
24 some time to do the redactions, Your Honor.

25 THE COURT: But you can run them tomorrow. How

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2 many people are we talking about?

3 MS. ROBINSON: Well, it's not a matter of us
4 running them, it's a matter of we get them from
5 different places. So the requests have to be made and
6 I think that we could get them relatively quickly but
7 the redaction process is what takes, what takes the
8 time.

9 THE COURT: How many people are we talking
10 about, Ms. Frick?

11 MS. FRICK: Meaning, I'm sorry, Your Honor,
12 how many deponents?

13 THE COURT: How many names have you already, I
14 said do you remember how many names are out there that
15 they need to do this for right now?

16 MS. FRICK: Well we've already provided from
17 our last conference and weeks before that we've
18 provided our full list of the high level deponents.
19 And I believe it's something around 80-ish names.

20 THE COURT: Eighty names.

21 MS. FRICK: It might be more than that, I
22 don't have it in front of me because it wasn't at issue
23 today.

24 THE COURT: I mean some of this depends upon
25 when these people are going to be deposed. I mean if

1 PROCEEDINGS 52
2 someone is not being deposed for six months, I would
3 give more time. When is, when do we, when does the next
4 high level deposition happen?

5 MS. FRICK: Well that's another issue, Your
6 Honor, that I was hoping that we could speak about at
7 the end of this conference, but right now there are no,
8 we have asked the defendants to schedule, we have a
9 list of 30 names as like a first batch to prioritize
10 including a handful of names that we'd be ready to
11 depose right away. We sent that to them last week on
12 Wednesday. We have not gotten a response and right now
13 there are no depositions of defendants on the calendar
14 despite our efforts.

15 THE COURT: Okay, well I will put that off for
16 the moment. Here's what I'll say, you should run these
17 80 names now and you should do the reactions, I'll give
18 you till August 1st to do that. And presumably the
19 plaintiffs will be reasonable about people who aren't
20 being deposed right away if you need some time to do
21 the redactions. But other than that you're going to
22 have to come back to me. August 1st for the redactions.

23 MS. ROBINSON: You know, I understand that,
24 Your Honor, but if a deponent is going in December --

25 THE COURT: Yes, I assume the plaintiffs will

1 PROCEEDINGS 53

2 not, will be reasonable but if they're not, just write
3 me a letter and say we have this person in December,
4 they're refusing to give us an extra week, and we'll
5 see what comes of that. I'm counting on the parties'
6 good will here.

7 MS. FRICK: Your Honor, just to clarify
8 because I now have the list in front of me, the high
9 level deponents that we've noticed are approximately
10 55, so my number was significantly overstating.

11 THE COURT: Okay, that seems very redactable
12 by August 1st.

13 MS. ROBINSON: The only --

14 THE COURT: Any --

15 MS. ROBINSON: The only issue that I have with
16 that, Your Honor, is that when somebody high ranking is
17 deposed in December and they're going to want the whole
18 thing all over again.

19 THE COURT: No, they get it once. So, I mean,
20 Ms. Frick, you get it once. I mean if you'd rather have
21 a system where you get it closer to the deposition, you
22 can work that out with the defendants, but I assume you
23 understood you'd get it once.

24 MS. FRICK: Understood, Your Honor. If there's
25 some other alternative, I don't want to speak for

1 PROCEEDINGS 54
2 everybody right now, I'm not (inaudible), I think that,
3 you know, we can, that sounds good to me but, of
4 course, we will communicate with Ms. Robinson if we
5 want to propose some other --

6 THE COURT: You two can modify -- you two can
7 modify, the two sides can modify this date of August 1st
8 by agreement without involving me.

9 MS. FRICK: Thank you, Your Honor, that's
10 helpful.

11 MS. ROBINSON: Thank you, Your Honor.

12 THE COURT: Okay. Anything else on what
13 defendants owe plaintiffs, Ms. Frick?

14 MS. FRICK: Nothing -- nothing else on our
15 end, Your Honor.

16 THE COURT: Ms. Robinson?

17 MS. ROBINSON: Yes. What defendants would
18 like is essentially --

19 THE COURT: No, no, no, no, no, anything else
20 on what defendants owe to the plaintiffs?

21 MS. ROBINSON: No, Your Honor.

22 THE COURT: Okay, now we'll move on to the
23 other issue that is in the letter which is what the
24 plaintiffs, I'm sorry, what the defendants are seeking
25 from the plaintiffs. Let me, let me try to express

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1 what I was trying to express on docket 528. These are
2 not 30(b)(6) depositions. The nature of the
3 plaintiffs' claims are apparent from the complaints.
4 There's not a big mystery there. If the plaintiffs
5 provide them exhibits that the defendant has never
6 seen, the defendant -- I'm sorry, I say defendant, it's
7 not a defendant. If the plaintiffs during the
8 deposition of a witness pull out an exhibit that the
9 witness has not, you know, been prepped on, has not
0 seen or whatever, that witness is going to have the
1 opportunity to read that document and answer it
2 intelligently after having read the document. If the
3 witness is a lawyer and they're being asked about what
4 the meaning of a case is, that lawyer is going to have
5 the opportunity if they can't answer it on the spot to
6 say I would like to read the case fully in order to
7 give you an intelligent answer and they are going to be
8 allowed to do that.

20 So and we're deciding, and the time being
21 allotted to the deponents we're hopefully setting in
22 advance, and even if we're not, certainly, whatever
23 time is spent reviewing something like that is not
24 going to be chargeable to the defendant as it were. So
25 there's every incentive to the plaintiffs to inform the

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2 witness in advance of exhibits and cases and things
3 like that. So I'm not sure that it adds anything for me
4 to require the plaintiffs to do it because, you know,
5 then we, you know, if they came up with something that,
6 you know, maybe there's some line of questioning that
7 led to some other document and they want me to bring up
8 the document, I don't want to prevent them from doing
9 it if the deponent, you know, already knows about it
10 and it's not something they necessarily would have
11 known about in advance to alert the other side to.

12 So it seems like there's some natural
13 incentives here on the plaintiffs to supply documents,
14 and the same thing goes for topic areas. If there's a
15 topic area they want to know that's somehow not obvious
16 that the witness would know, and the witness is saying,
17 you know, I'd have to review my notes on that and I
18 can't answer that question for you right now, there's
19 some things I need to review in order to answer your
20 question, then they're not going to get that witness
21 back necessarily if it's something, you know, that they
22 could have told the witness about in advance. So these
23 natural breaks, that just makes me wonder why the
24 plaintiffs feel, I'm sorry, why the defendants feel
25 that I need to be ordering something along these lines,

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2 what is it that you envision happening that's going to
3 be -- let me finish --

4 MS. ROBINSON: I'm sorry.

5 THE COURT: That's going to be detrimental to
6 you if I don't issue the order that you're requesting?

7 MS. ROBINSON: Your Honor, defendants, the
8 defendants believe that they should be provided with as
9 much of the topics, and exhibits, and video, and case
10 law to the extent that it's relevant, as much as
11 possible before these depositions take place to, to --
12 what am I trying to say, to make as much of the time of
13 the depositions that we have and not have any gotcha
14 moments. There are 500,000 documents in this litigation
15 and thousands of videos, and, you know, to, to catch
16 someone out on a video that they haven't been prepped
17 on or an exhibit that they haven't seen before, it just
18 seems to me to be an inefficient way of conducting the
19 depositions. And the defendants are as entitled to, as
20 far as I'm concerned, they're entitled to information
21 before depositions as plaintiffs are.

22 THE COURT: I mean, Ms. Robinson, there is
23 absolutely no equivalence here. I mean I'm not saying
24 you shouldn't get it, but there's a world of difference
25 between producing documents that were part of a

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2 document request and producing them in advance of the
3 deposition in which you've been (inaudible) and should
4 have happened anyway, and asking what you're going to
5 be asked about in a deposition, you don't see the
6 difference between those two, they're completely
7 different? And it's not the norm that people know in
8 advance what exhibits they're going to be asked for in
9 depositions, why is this case being treated
10 differently?

11 MS. ROBINSON: Well a lot of things in this
12 case are treated differently and, you know, this is a
13 case that is very unusual in that there are many very
14 high ranking officials that are going to be testifying
15 in this case. And I'd just go back to what I as saying
16 earlier is that it is, it prevents the gotcha moment.
17 It prevents wasting time reading a 50 page document.
18 It prevents going down topics which the deponent has no
19 knowledge of and allows that deponent to, when the
20 topics are given, and we're not, you know, we're not
21 saying that, we understand that not every exhibit and
22 topic is known, you know, a week in advance of a
23 deposition but we, we would like to see topics and
24 exhibits, you know, a week before a deposition with the
25 follow-up in three days. I mean it makes, it just makes

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2 the depositions more efficient and it prevents, you
3 know, gotcha, here you are on video doing this, which
4 could be completely taken out of context or just
5 snippets of video. A snippet of this video and then
6 missing five minutes of it, and then a snippet of, you
7 know, it just, it prevents that.

8 THE COURT: Ms. Frick?

9 MS. FRICK: Your Honor, I'm not really sure
10 what to say to be honest. I think that we agree with
11 Your Honor that it is not in our interest to spend our
12 precious deposition hours that we, you know, our few
13 hours that we're allotted between eight cases, having a
14 plaintiff sit and read a 50 page document, that's in
15 our interest. And so the extent that we can avoid
16 wasting time like that, we will absolutely do so in
17 order to have an efficient deposition, that's
18 absolutely in our interest.

19 You know, the flipside of that, of course, is
20 that to the extent that we do provide information in
21 advance, we ask that the City actually prepare their
22 witness for it and, you know, not take additional time
23 during the deposition to re-review it. But other than
24 that, the idea that a deponent is entitled to know
25 exactly what is coming to them in a deposition, whether

1 PROCEEDINGS 60

2 it's the types of questions that will be asked, the
3 exhibits that will be shown, just have no support in
4 any, in any case, in any rule, in any case law. And I
5 don't have anything else to say other than that there
6 are very good reasons for a lawyer on either side to
7 not want to telegraph their entire deposition strategy
8 well in advance of a deposition.

9 MS. ROBINSON: And I understand that, Your
10 Honor, but maybe it's escaping me, but I'm pretty sure
11 that plaintiffs agreed to giving topics and exhibits a
12 week in advance to the extent that they know what they
13 are. I think that they agreed to that in their letter.

14 MS. FRICK: Yeah, exactly, what we agreed to
15 -- what we agreed to is that we would provide exhibits
16 and topics, you know, that we have ready and that we
17 think will aid at the deposition, but that we are not
18 precluded from asking about other topics and other
19 exhibits, that is the whole point of our, you know, our
20 exhaustive meet and confer and our letter.

21 THE COURT: Okay.

22 MS. ROBINSON: And we understand that, Your
23 Honor, and all we are asking for is a supplement, you
24 know, we understand that not every document and topic
25 is going to be given to us, but what can be given to us

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2 within a week and then what can be given to us within
3 three days is all we're asking for.

4 MS. FRICK: Your Honor, what the City, as long
5 the City is not asking for an exhaustive list then we
6 can, we can provide as we have said from the start, we
7 will provide what we can.

8 THE COURT: Okay, that's fine.

9 MS. FRICK: But we won't be precluded --

10 THE COURT: Provide what you can, provide what
11 you can, you will not be precluded from asking about
12 other topics or documents or videos, just understand
13 that there could be consequences if the deposition has
14 to stop while something gets reviewed that you could
15 have, something that you could have told them about.
16 So I think I'm going with the plaintiffs' offer on this
17 and that's sufficient for me.

18 MS. ROBINSON: You know, in that case we also
19 would want to object to bringing witnesses back because
20 they, you know, the time is being taken up by reading
21 documents that they haven't seen before --

22 THE COURT: We'll deal with that if it comes
23 up, I think I already said what I had to say about
24 that.

25 Okay, I think we've covered the letters. Ms.

1 PROCEEDINGS 62
2 Frick, did I understand from you that you wanted to
3 talk about deposition scheduling?

4 MS. FRICK: Yes, Your Honor, so --

5 THE COURT: I normally don't hear topics like
6 this but this is such a critical issue and was the
7 subject of an order that I issued and a discussion
8 that, you know, we had in the conference, that I'm
9 going to make an exception and see what we can do right
10 now on it. Go ahead.

11 MS. ROBINSON: Your Honor, just before we,
12 before we --

13 MS. FRICK: Our concern is that --

14 THE COURT: Hold on. Hold on, Ms. Robinson
15 had something before we start, what?

16 MS. ROBINSON: Just one thing before we start,
17 does that mean that we will get exhibits and topics a
18 week, you know, what they can a week in advance and
19 what they can't three days in advance, is that what we
20 agreed to?

21 THE COURT: No, I think you'll get what they
22 can a week in advance and anything else they want to
23 supplement is completely up to them.

24 MS. ROBINSON: Understood.

25 THE COURT: Go ahead, Ms. Frick.

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2 MS. FRICK: Okay, so I think our concern is
3 that we have, we have radio silence right now from
4 defendants about the process that will be used to
5 schedule these depositions. So after we, you know, the
6 conference, I guess it was two weeks ago, and the very
7 firm messaging that, you know, we're going to be on a
8 tight timeline, we need to get everything done, we
9 decided to just make a kind of first batch of deponents
10 that included both lower level and higher level
11 deponents and send that batch over to defendants to
12 say, look, we think it makes sense to kind of start
13 with trying to schedule these so that you're not
14 looking at a giant list and don't really know where to
15 start. So let's start with these 30 people, a handful
16 of which we're ready to depose, you know, right away,
17 and the rest we would ask for, you know, in a couple of
18 weeks and later. We provided that list on Wednesday
19 and obviously that took a lot of coordination among the
20 teams and we haven't heard, we asked for confirmation
21 on Friday that, you know, there was going to be some
22 kind of start to this process, we haven't heard
23 anything. I followed up again today and I haven't heard
24 anything.

25 And so I'm just concerned A) about the lack of

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2 a process, and B) what plaintiffs don't want to do is
3 waste the Court's time or come to the Court prematurely
4 about scheduling issues. At the same token obviously we
5 don't want to wait too long such that by the time we
6 get to the Court, you know, we have run out of a lot of
7 time or the Court thinks that we've delayed. And so I
8 guess it's a two-pronged process question, one is
9 looking for process from the City and two is asking the
10 Court for its preference on a process to bring
11 scheduling matters to its attention.

12 THE COURT: Ms. Robinson.

13 MS. ROBINSON: We have received their proposed
14 list, Your Honor, but it is our understanding that when
15 a, as it came, as it comes to the line officers and the
16 high ranking officers, that defendants choose their
17 dates based upon their availability. And we have been
18 taking plaintiff depositions and officer depositions
19 and we are going to get back to plaintiffs with respect
20 to their list. But they have a lot of high ranking
21 depositions on the list and we still need to obtain
22 availability for those. And we would prefer, I mean
23 what we would prefer to do is to get the line officers
24 and the plaintiffs out of the way and then work on the
25 high ranking and 30(b)(6) witnesses. That's been our

1 PROCEEDINGS

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2 plans from the beginning.

3 THE COURT: I mean --

4 MS. FRICK: Well that plan was never
5 communicated to us.

6 THE COURT: Yes, I mean I'm not quite sure how
7 to do this.

8 MS. FRICK: And --

9 THE COURT: Hold on. Hold on.

10 MS. FRICK: If that was the plan we should
11 have been doing that during the stay.

12 THE COURT: Listen, we have to solve the
13 problem we have in front of us. The, I guess when
14 names are available the defendants need to immediately
15 contact these people and schedule them. Now whether
16 they are scheduled, you know, August 1st or they're
17 scheduled October 1st, I'm not sure is that important as
18 long as, because some people might not be free for two
19 months. But I guess it's what's important that there
20 be a flow of names from the plaintiffs and a constant
21 filling in of the calendar by defendants as they reach
22 each of these deponents.

23 MS. FRICK: I believe that our understanding
24 this entire time is that defendants would be choosing
25 the dates for the defendant officers, especially --

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THE COURT: We just want to make sure that

those dates get chosen --

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MS. FRICK: Understood.

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THE COURT: (continuing) -- within some, within some reasonable period of when they give you names. So the calendar has to be --

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MS. FRICK: Your Honor, I need to clarify

that.

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THE COURT: Go ahead.

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officers.

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So the point is that there are, other than

plaintiffs there are no depositions on the calendar,

none, zero.

THE COURT: Okay, I see the problem. You have

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2 the full list, you just, you gave a list of people that
3 you wanted to give priority to. Are you ready on the
4 full list as it were?

5 MS. FRICK: Are we ready, Your Honor?

6 THE COURT: Yes, on the full list?

7 MS. FRICK: Do you mean, I just don't think I
8 understand the question.

9 THE COURT: No, I mean is there any reason
10 they can't just start going down that full list and
11 putting together a deposition calendar right now?

12 MS. FRICK: There's no reason. We, our idea
13 was that by providing the names now it would also help,
14 it would also help the defendants know that like we
15 think it makes sense to start with these folks and by
16 start we don't mean, you know, tomorrow, but like this
17 batch of 30 makes sense to be scheduling in the nearer
18 term because there might be, you know, maybe the chief
19 of police shouldn't be the first high level deponent,
20 maybe that person makes sense to be scheduled more in
21 the winter. But at a certain point we kind of lost our,
22 at this point there's not going to be really even time
23 for us to have preferences like that, like we just need
24 people on the calendar.

25 THE COURT: All right, Ms. Robinson, what's

1 PROCEEDINGS 68

2 your proposal for making sure we have everybody
3 scheduled and it's scheduled through February 28th,
4 what's your proposal for how to do that?

5 MS. ROBINSON: We, as I stated, we are working
6 on plaintiffs' list, that our plan all along was to do
7 the line officer, and that's, in fact, what's been
8 going on is the line officers and the plaintiffs' deps
9 which were ordered to be also taking place. And then
10 the higher ranking individuals would go last in the
11 schedule. And we are doing our best to make the
12 schedule happen and we are going to respond to Ms.
13 Frick's schedule. We've been planning to respond to
14 that schedule.

15 THE COURT: When you say schedule --

16 MS. FRICK: Well, to be clear, it wasn't a
17 schedule.

18 THE COURT: You mean the list of thirty?

19 MS. ROBINSON: The list, yes.

20 THE COURT: Yes, okay. So

21 MS. FRICK: I also think, Your Honor, we have
22 to double track depositions, and so our idea, as we had
23 discussed in meet and confers and at the conference a
24 couple of weeks ago was that we can hold line officers
25 and high up officers on the same day. There is simply

1 PROCEEDINGS 69

2 not, there are not enough days, work days between now
3 and February 28th, to do it completely staggered to do
4 it the way Ms. Robinson is suggesting.

5 MS. ROBINSON: I'm not suggesting that, Your
6 Honor. I'm not suggesting, you know, a deposition a
7 week. I'm not even suggesting that we can't double
8 track, it's only been three days since we've gotten the
9 list.

10 MS. FRICK: No.

11 MS. ROBINSON: And we are working on that
12 list.

13 THE COURT: What is your process, when you
14 want to, do you contact a line officer's supervisor and
15 you pick a day and you discuss it with them, what do
16 you do?

17 MS. ROBINSON: We contact the officer directly
18 and we find out what his availability is, and based
19 upon that we schedule, we basically find out what his
20 vacation days are, what his regular scheduled days off
21 are, and then we work into the schedule when that
22 person is available and then when we are available to
23 prep them and depose them. That's how it works with the
24 line officer, it's the same way that it works --

25 THE COURT: And how long does, I mean it

1 PROCEEDINGS 70
2 doesn't sound like it would take, I mean maybe it takes
3 a day or two to reach the officer, but once you reach
4 the officer then you've got your list of days, right?

5 MS. ROBINSON: Yes, we also -- yes, in theory,
6 yes, that should work. It's, it just, it's time
7 consuming, it's a little more involved than that.

8 THE COURT: I know, but I think this
9 investment of time here will save you some grief down
10 the road.

11 MS. ROBINSON: And plaintiffs have cancelled
12 depositions, this is, you know, not something that's on
13 the defendants.

14 THE COURT: Ms. Robinson, Ms. Robinson, I'm
15 talking about scheduling depositions.

16 MS. ROBINSON: Understood.

17 THE COURT: We need to have depositions
18 filling up a calendar in the short term.

19 MS. ROBINSON: Understood.

20 THE COURT: I'm trying to think about how the
21 process should be, I mean I guess I could say I require
22 the plaintiff, I mean it's a total of about how many
23 names or days, it's like a hundred-something, what was
24 it?

25 MS. FRICK: With the plaintiffs I believe it's

1 PROCEEDINGS

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2 approximately 125 days total.

3 MS. ROBINSON: I think it's 145 days with the
4 plaintiffs, and that's 145 deposition prep days. So we
5 are mindful of the schedule and the --

6 THE COURT: Okay, I mean it's your own head on
7 the chopping block figuratively, I just can't imagine
8 how you are going to do this without contacting these
9 officers immediately and getting back to plaintiffs
10 within a matter of, you know, two or three, maybe five
11 at the most days saying here's the dates for these
12 people. So that's what should be happening on some
13 ratio.

14 Now it doesn't seem, if you've got thirty
15 names, is that what you said you gave them, Ms. Frick,
16 to start?

17 MS. FRICK: Yes, our kind of batch, but,
18 again, it's just a subset of the people that we're --

19 THE COURT: I understand, on Wednesday, okay.
20 So --

21 MS. FRICK: And I do think it's not going to
22 work if the defendants try to first get through all of
23 the line officers before scheduling high up officers.
24 Our main concern about that is we're going to come to
25 the winter and we're going to suddenly have no time for

1 PROCEEDINGS 72
2 the people that, you know, the teams really care about.
3 MS. ROBINSON: And, Your Honor, you know, I
4 misspoke because, you know, obviously, you know,
5 officers will be, you know, combined with each other
6 and there will be high ranking people that will go, you
7 know, more than one in one week. So -- and plaintiffs
8 as well, we still have numerous plaintiffs to go
9 through and we haven't received any of their
10 availabilities as of yet either. So --
11 THE COURT: If you had come to me and
12 complained about that -- if you came to me and
13 complained about that I would do something. But I'm
14 just trying to solve this problem and it seems to me
15 that we need to get a list really quickly, and I'm not
16 sure it has to be all 145, but at least the 30, you
17 know, within a matter of, you know, by Friday at the
18 absolute latest --
19 MS. ROBINSON: Your Honor, that would be
20 impossible to get availability for 30 officers --
21 THE COURT: Why?
22 MS. ROBINSON: By Friday.
23 THE COURT: You told, I asked you this
24 question, you told me that you have to contact the
25 officer and then you basically know the dates of that

1 PROCEEDINGS 73
2 officer and it takes you a day or two to reach that
3 officer.

4 MS. ROBINSON: Well I didn't say it takes a
5 day or two to reach the officer, sometimes it can take
6 a long time to reach an officer. We've had that issue
7 with the past round of officers. We did double track on
8 Friday, by the way, and it can be complicated reaching
9 officers. Once you reach an officer and, it's just a,
10 it can be a complicated process reaching them, not
11 necessarily getting them scheduled. But we have to
12 take into consideration there are --

13 THE COURT: How many officers have you
14 contacted so far to try to schedule their deposition?

15 MS. ROBINSON: Me, personally?

16 THE COURT: No, the City of New York.

17 MS. ROBINSON: I don't, I don't know the
18 answer to that, Your Honor.

19 THE COURT: I want an answer to that question
20 and I want it by tomorrow. I want, I ordered these
21 depositions to start happening. You already have the
22 list of a hundred and whatever names putting aside
23 these thirty names. These people have to be contacted
24 immediately. I want, I think the way to do this is for
25 you to do an Excel spreadsheet with these names and

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2 column one is officer contacted, and I'd like to see
3 it, if not tomorrow, the next day. And, of course, it
4 needs to be shared with the plaintiffs. And this is a
5 very serious issue, this is a, you know, a gateway into
6 the whole deposition process and it has to be done on
7 an expedited basis, it's the simplest thing in the
8 world. I'm not saying you should be able to reach them
9 in a day or two, but making that initial contact that
10 has to be done just immediately. And you have to
11 figure out these dates, otherwise this is not going to
12 happen and I'm going to, I'm absolutely going to put
13 the blame on the City for this and there will be no
14 escaping it.

15 MS. ROBINSON: I also want to bring up that
16 plaintiffs have given us no availability for any of the
17 plaintiff dates.

18 MS. FRICK: That's not, Your Honor, that's
19 simply not true --

20 THE COURT: Stop. Stop. Stop, Ms. Frick, I'm
21 not dealing with that now, I'll deal with it perhaps at
22 the end of this phone call, but it's outrageous, Ms.
23 Robinson, that your reaction to my asking you to
24 contact these officers which is your responsibility or
25 the City's responsibility, your reaction to that is to

1 PROCEEDINGS 75
2 point fingers at the plaintiff about a problem you
3 never --

4 MS. ROBINSON: No, I agree with Your Honor,
5 I'm not --

6 THE COURT: Ms. Robinson, you need to stop
7 interrupting me.

8 MS. ROBINSON: Understood.

9 THE COURT: Because that sends a very bad
10 message to me when you don't deal with an issue that
11 I'm raising with you. This is a very, very serious
12 issue. You have to contact these names, it should not
13 require the plaintiffs to give you a list of thirty
14 names. I put a task on you that I know is hard, but
15 you're not helping yourself. If it were me, the day
16 after I was told that I had to depose a hundred-
17 whatever people by February 28th. I would organize a
18 group to contact all of those people to put together a
19 schedule that would allow me to do it. And that's what
20 you should be doing. And that's why you need to start
21 this spreadsheet, I'm frankly shocked if it doesn't
22 exist already --

23 MS. ROBINSON: It does, Your Honor.

24 THE COURT: And column one is date this person
25 was contacted, column two is dates they're available,

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2 then you get to putting together a schedule that you
3 share with the plaintiffs in consultation with the
4 plaintiff.

5 So we're now going to start, this spreadsheet
6 is doing to be shared with the plaintiffs, the list of
7 names and contact date. Whether there's been an effort
8 to contact them and when the contact was made, okay?
9 and that needs to be shared with them on a regular
10 basis starting to days from now. You don't have to send
11 it to me, I want you to send it to plaintiffs, they'll
12 tell me if they think there is going to be a problem in
13 doing this. And it's not just the thirty names they
14 gave you, that's everybody.

15 Now some, if some names are blank because you
16 couldn't contact them in the next couple of days,
17 that's fine, but if it turns out you've only contacted
18 three people between now and two days from now, that's
19 going to be very serious and I want to hear about it.

20 MS. ROBINSON: Understood, Your Honor.

21 THE COURT: So let's provide a spreadsheet
22 every Wednesday, okay, starting this Wednesday, and if
23 the plaintiffs feel this is not happening the way it
24 should be happening, they're absolutely welcome to come
25 to me, I'm not going to be giving any extensions on

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2 2 (a) letters or anything like that, we're going to do
3 it very quickly.

4 All right, Ms. Frick, do you think there is
5 anything else we can do on the scheduling piece from
6 your end other than the spreadsheet for now?

7 MS. FRICK: No, Your Honor, I appreciate your
8 help.

9 THE COURT: Okay, so hopefully that works.
10 Now, Ms. Robison, what do you want, what relief do you
11 want from me on the issue of scheduling plaintiffs'
12 depositions or would you rather talk about it with the
13 plaintiffs first?

14 MS. ROBINSON: We can discuss it with the
15 plaintiffs first, we just need dates of availability.

16 THE COURT: All right, I will not deal with
17 the issue then now.

18 I think that's my agenda for today, anything
19 else Ms. Frick from the plaintiffs' side?

20 MS. FRICK: That's all on our side, Your
21 Honor, thank you very much for your time.

22 THE COURT: Ms. Robinson, anything from the
23 defendants' side?

24 MS. ROBINSON: No, Your Honor, thank you.

25 THE COURT: I'd like a written order about the

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2 deposition protocol, if you can't agree on it just send
3 me competing orders, try to do it by Friday.

4 Okay, thank you, everyone, good-bye.

5 MS. ROBINSON: Thank you, Your Honor.

6 MS. FRICK: Thank you, Your Honor.

(Whereupon the matter is adjourned.)

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C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the United States District Court, Southern District of New York, In Re: New York Policing During Summer 2020 Demonstrations, docket #20cv8924, was prepared using PC-based transcription software and is a true and accurate record of the proceedings.

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15 Signature Carole Ludwig

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17 Date: July 13, 2022

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